

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1432

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
CRIMINAL #N76-5

B

UNITED STATES OF AMERICA

Appellee,

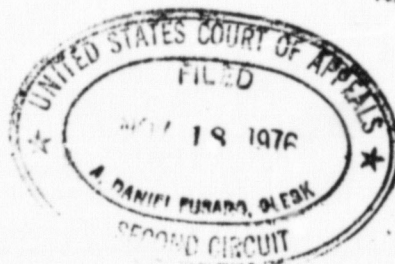
-v-

RICHARD WASHINGTON, et al.,

Appellant.

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF CONNECTICUT

A P P E N D I X



KENNETH W. SALAWAY
Attorney for appellant
Richard Washington
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125-10 Queens Boulevard
Kew Gardens, New York 11415
Tel. #212-793-2700

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EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

ARTHUR T. HENDRIX, DAVID R.
LEWIS, AARON LEROY STEWART,
RICHARD WASHINGTON and
DAVID WILLIAMS

CRIM. NO. 1176-5
(18 USC 2113(a)(b)(d) and 371)

I N D I C T M E N T

THE GRAND JURY CHARGES:

COUNT ONE

On or about September 20, 1973, at Stamford in the District of Connecticut, ARTHUR T. HENDRIX, DAVID R. LEWIS, AARON LEROY STEWART, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, did by force and violence and by intimidation take from the person and presence of another, money belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(a) and Title 18, United States Code, Section 2(a).

COUNT TWO

On or about September 20, 1973, at Stamford in the District of Connecticut, ARTHUR T. HENDRIX, DAVID R. LEWIS, AARON LEROY STEWART, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, did take and carry away, with intent to steal and purloin, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(b) and Title 18, United States Code, Section 2(a).

COUNT THREE

On or about September 20, 1973, at Stamford in the District of Connecticut, ARTHUR T. HENDRIX, DAVID R. LEWIS, AARON LEROY STEWART, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, wilfully and unlawfully, did take by force, violence and intimidation, from the persons and presence of Donna Buchetto, Stella Vattaglia, Margaret Perry, Vera Carrieros, Lu Ann Sciglinpalia, John Daneion and Nicholas Galiatsos, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank at 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing the aforesaid acts, ARTHUR T. HENDRIX, DAVID R. LEWIS, AARON LEROY STEWART, RICHARD WASHINGTON and DAVID WILLIAMS, did assault Donna Buchetto, Stella Vattaglia, Margaret Perry, Vera Carrieros, Lu Ann Sciglinpalia, John Danelon and Nicholas Galiatsos and put their lives in jeopardy by the use of dangerous weapons, to wit, a pistol and a shotgun, in violation of Title 18, United States Code, Section 2113(d) and Title 18, United States Code, Section 2(a).

COUNT FOUR

On or about September 20, 1973, at Stamford in the District of Connecticut, ARTHUR T. HENDRIX, DAVID R. LEWIS, AARON LEROY STEWART, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, did wilfully and unlawfully combine, conspire, confederate and agree together and with Joseph Daniels, named herein as a co-conspirator but not as a co-defendant, to commit an offense against the United States of America, that is, to take and carry away, with intent to steal, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(b), all in violation of Title 18, United States Code, Section 371.

OVERT ACTS

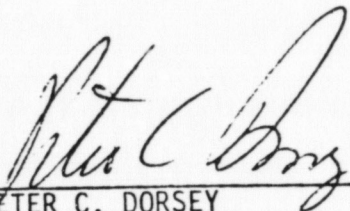
The grand jury charges that in furtherance of the aforesaid conspiracy and to accomplish the objects thereof, the defendants at the times

and places hereinafter set forth did commit the following overt acts:

1. On or about September 19, 1973, the defendants met with each other and with Joseph Daniels.

2. On or about September 20, 1973, the defendants drove to the West Side Office of the Connecticut National Bank at 414 West Main Street, Stamford, Connecticut.

A TRUE BILL



PETER C. DORSEY
UNITED STATES ATTORNEY



WILLIAM F. DON, III
ASSISTANT UNITED STATES ATTORNEY

FOREMAN

EXHIBIT B

S

OPPOSITE THE APPLICABLE DOCKET ENTRIES IN SECTION IV SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE

BEST COPY AVAILABLE

Magistrate
205-03
District Office
U.S. vs. STEWART, ARON LEROY
5 1 76 N-76-5
No. of 5
Defendants
JON

AGES
U.S. CODE SECTION
18:2113(a) 2(a) took money from bank by violence
18:2113(b) 2(a) took money w/intent to steal from bank
18:2113(d) 2(a) put lives in jeopardy by use of dangerous
weapon
18:371 conspiracy
OFFENSES
COUNTS
MAGR. CASE NO.
BAIL & RELEASE
Personal
Unsecured
Conditional Release
Set (600)
10%
Surety
Collateral
Bail Not Made
Bail Status Changed
(See Docket)
U.S. Attorney, in Asst
Peter C. Dorsey
William F. Dow, III
M. Mitchell Morse
207 Orange Street, New Haven, Ct.

ARREST
2/9/76
U.S. Court of District of Connecticut
INDICTMENT
11/15/76
Information
Warrant
Supervising
Unsubstantiated
ARRAIGNMENT
2/9/76
Trial Set For
5/24/76
Verdict
6/2/76
Disposition
6/2/76
Convicted
Acquitted
Dismissed
Nolled/Discontinued
On Appeal
On Last Offense
WOP
PCAR

Search Warrant	Issued	Return	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Summons	Issued				PRELIMINARY EXAMINATION OR REMOVAL HEARING	Date Scheduled	Dismissed Held for District CJ Held to Answer to U.S. District Court AT: Magistrate's Initials
	Served				Waived Not Waived	Date Held	
Arrest Warrant						Intervening Indictment	
COMPLAINT					Type No	INITIAL/No	
OFFENSE (In Complaint)							

Show last names and suffix numbers of other defendants on same indictment/information
1-HENDRIX, 2-LEWIS, 4-WASHINGTON, 5-WILLIAMS
V. Excludable D
(a) (b)
1/5/76 Indictment returned and filed at New Haven. Bench warrant may issue and lodge as a detainer. Zampano, J. m-1/6/76
1/6/76 Bench Warrant issued and handed to U.S. Marshal for service.
1/12/76 Application for Writ of Habeas Corpus Ad Prosequendum, filed by govt. and allowed. Newman, J. m-1/12/76. two cert. copies handed to U.S. Marshal for service.
2/9/76 PLEA? Financial Affidavit, filed by deft. Appointment of M. Mitchell Morse as counsel for deft. Plea of not guilty entered to Counts 1 thru 4. CJA Form 20 appointing M. Mitchell Morse, filed. Deft. request 2 weeks for filing motions-granted. Newman, J. m-2/9/76.
2/24/76 1) Deft's Motion to Dismiss, 2) Deft's Motion for Production of Grand Jury Testimony, 4) Deft's Motion for Production at Trial 3) Deft's Motion for Discovery and Inspection, Deft's Motion for Production of Evidence Favorable to the Accused, 6) Motion to Suppress Evidence Derived from Unlawful Electronic Surveillance, Deft's Motion to Suppress Photographic and Eyewitness Identification, 7) Motion for Disclosure of Electronic Surveillance, Motion for Disclosure Regarding Opening of First Class Mail, 10) Deft's Motion to Impound

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
1976					
2/24/76	and Preserve any and all Notes, Reports and Memoranda of Federal Bureau of Investigation Agents, State Police Officers and Bridgeport, Police Officers Relevant to the Instant Indictment, 11) Motion for An Order Increasing the number of Peremptory Challenges Available to the defense Counsel, 12) Motion for Leave to Join, Adopt, Or Consolidate Motions of Co-Defts. Motion to Extend the Deadline for Filing Motions, or In the Alternative, to Grant Leave to File Supplementary Motions, and Motion for a Bill of Particulars, filed by deft.				
3/4/76	Court Reporter's Sound Recording of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.				
3/26/76	Notice of Readiness, filed by govt.				
4/29/76	Response to Motion for Discovery and Inspection of Deft's Lewis and Stewart, Response to Deft. Lewis Motion for Bill of Particulars, Response to Deft. Stewart's Motion for Bill of Particulars, Response to Motion for Leave to Join, Adopt, or Consolidate Motions of Co-Defendants Lewis and Stewart, Response to Deft. Stewart's Motion for Production at Trial, Response to Motion for Production of Grand Jury Testimony by Defts Stewart and Lewis, Response to Motion for Production of Evidence favorable to the Accused by Defts Stewart and Lewis, and Response to Motion to Impound and Preserve any and all Notes, Reports and Memoranda of Federal Bureau of Investigation Agents, State Police Officers, and Bridgeport Police Officers Relevant to the Indictment, filed by Govt.				
5/3/76	Response to Motions to Extend Deadline for Filing Motions, or, in the Alternative, to Grant Leave to File Supplementary Motion for Deft. Stewart and Lewis, Response to Motion for An Order Increasing the number of peremptory challenges available to Defense Counsel by Defts. Stewart and Lewis, filed by Govt.				
5/6/76	Supplemental Response to Motion for An Order Increasing the Number of Peremptory challenges available to defense counsel by Defts. Stewart and Lewis, filed by govt.	3	5/6/76	6	
5/12/76	Application for Notice of Alibi, filed by govt.				
5/14	Marshal's return showing service, filed: Subpoena to Produce.				
5/17/76	Ruling on Pre-Trial Motions of Deft.'s Stewart and Lewis, filed and entered. Newman, J. m-5/17/76. copies mailed to all counsel of record.	3	5/17/76	6	11
5/17	Following endorsement on deft's Motion to Withdraw Appearance: Since this case is on Judge Murphy's Trial Calendar for May 20, 1976, the Motion is denied, without prejudice to renewal before				
	(continued)				
		(a)	(b)	(c)	(d)
		Interval (per Section II)	Start Date End Date	Ltr. Code	Total Days

DATE	PROCEEDINGS	V. EXCLUDABLE DELA
1976		
5/17(cont'd)	Judge Murphy in the event new counsel appears and is ready for trial. Newman, J. m-5/18/76. Copies mailed to all counsel and defendant.	
5/20	Application for Notice of Alibi endorsed: Motion off w/o prejudice; Rule 12.1 does not require a Court order Newman, J. m-5/20/76. copies mailed to all counsel of record.	
5/20	On TTH's Jury Assignment List: Ready. Mon. May 24, 1976, Jury Selection. Trial for June 2, 1976. Court defers ruling on oral Motion on Use of Prior Convictions of deft. Court hears counsel in chambers re: ex parte application for subpoena. Murphy, J. m-5/21/76.	
5/21	Marshal's return showing service, filed: 4 subpoenas to Testify.	
5/24	On TTH's Jury List: Jury impanelled. Murphy, J. m-5/25/76.	
5/24	JURY TRIAL COMMENCES: Counsel for deft. Washington are not present and local counsel will select jury for them. Govt is not going to trial against the deft. Hendrix. Counsel for lefts request a hearing date on Motion to Dismiss the Indictment for Pre-Indictment Delay, denied for reasons stated in open Court. Court Exs. 1 and 2 marked for ID. Court ex. 3 marked for ID and sealed. Motion to increase the nbr. of pre-emptory challenges-denied. Atty. Morse moves to renew motion to withdraw, motion denied may be renewed when counsel files an appearance. Court described the case to the jury. Two jurors excused for cause. Govt. allowed six challenges and one for alternate challenge. Defts allowed 10 challenges and one for alternate challenge. Twelve jurors and two alternates sworn and impanelled. Testimony to begin on June 2, 1976. J. yers remain for further selection in other cases. Murphy, J. m-5/25/76.	
6/2	JURY TRIAL CONTINUES: 14 jurors present. Govt. informs Court that Jencks Act material re: Hendrix and Jefferson given to defense counsel. Motion of U. S. Atty. for Dismissal of Indictment re: Hendrix with Order of Court granting dismissal, endorsed thereon, filed. Motion of U.S. Atty for Dismissal of Indictment re: Stewart with Order of Court granting dismissal endorsed thereon, filed. Deft. orally renecs Motion to Dismiss and Memorandum in Support of Ex parte Application for Subpoena and In Support of Motion to Dismiss, filed by deft. Williams. Court Ex. 3501 and 3502, marked for ID. Atty Byelas moves admission of Kenneth Salaway, Esq. for the purpose of this case--granted. Govt Exs. 1, 2, 3A, 3B, 4A, B, C, & D, 5A thru 5D and 6A thru 6T, marked for ID. Five Govt. witnesses sworn and testified. Govt Exs. 1, 2 and 6C made full exhibits, Govt. Ex 7, filed. Govt. Ex. 8 marked for ID. Court Ex. 3503, marked for ID. Govt. Ex. 9A & B, 10A & B, marked for ID. Application for Writ of Habeas Corpus Ad Testificandum filed and Writ issued. Handed to Marshal for service.	over

DATE
1976

PROCEEDINGS

6/2

Court Ex. 3504, marked for ID. Govt. Exs. 9B and 10B made full exs. Govt. Ex. 11, marked for ID. Govt. Ex. 6B, C, K, & N, made full exs. Govt. Ex. 11 made full ex. Deft. Exs. A & B marked for ID. Govt. Exs. 5A thru D, made full exs. Govt makes Offer of Proof and reviews Stipulation to be read to jury. Deft. Washington moves for Directed Verdict, denied. Defts. Williams and Lewis join motion for Judgment of Acquittal, denied. Govt. reads Stipulation to the jury re: exhibits. Govt. Exs. 3A-5B, 4A-4D and Govt Ex 12, filed. Govt. rests 3:24 P.M. One deft. witness sworn and testified. Deft. Ex. C, marked for ID. Court adjourned at 3:28 P.M. until 10:00 A.M. of 6/3/76.

6/3

Govt Request for Instructions, filed.

" "

Deft. Lewis' Request to Charge, filed.

6/7

Notice of Readiness, filed by govt. (for retrial)

6/7

Marshal's return showing service: Subpoena to testify (4)

" "

Marshal's return showing service: Habeas Corpus

" "

Marshal's return showing service: Writ of H. C. ad Testificandum.

6/7

Marshal's non est return, filed: Subpoena ticket.

6/3

JURY TRIAL CONTINUES: Twelve jurors and two alternates present. Three deft. witnesses sworn and testified. Deft Exs. D & E, filed. Govt. Ex. 13, filed. Deft. Ex. F, marked for ID. Deft. Lewis rests. Two deft. witnesses sworn and testified. Deft. Washington rests at 1:05 P.M. Two deft. witnesses sworn and testified. Deft. Washington moves for mistrial, denied. Affidavit of David Williams in Support of Ex Parte Application for Issuance of Subpoenas and Motion to Dismiss, filed. Supplement to Affidavit of David Williams, filed. Govt. Ex. 15 and 16, marked for ID. Deft. Williams rests at 3:30 P.M. Deft. Lewis's and Govt's Stipulation re: description of Charles Spruill read into record. One govt. rebuttal witness sworn and testified. One witness previously sworn recalled as rebuttal witness. Deft. makes offer of Proof. Deft. Ex. G, marked for ID. 4:25 P.M. Govt. rests in rebuttal. Juror Zenke excused by Court and replaced by alternate. 4:25 P.M. Jury excused until 10:00 A.M. Court adjourned at 4:27 P.M. until 10:00 A.M. of 6/4/76. Morphy, J. m-6/8/76.

6/4

JURY TRIAL CONTINUES: Deft. Washington moves to delay trial until witness arrives-denied for reasons stated in open Court. Deft. Washington moves for mistrial-denied. Deft. Washington moves to have Govt. produce Mr. Ablerich and report, denied. Deft. Washington rests. Deft. Ex. G, made full ex. Balance of all govt. Exs. 6A thru 6F made full exs. All parties rest at 10:15 A.M. 10:17 A.M. Alt. #1 replaces excused juror. Summations Govt. 10:18 to 10:42 A.M. Deft. Lewis 10:42 to 10:52A. M. Deft. Williams 10:52 A. M. to 11:20 A. M. Deft. Washington 11:20 A. M. to 11:40 A. M. Govt. rebuttal 11:40 A. M. to 11:55 A. M. Court charges jury 12:23 to 12:55 P.M. Exceptions to charge noted in chambers by Deft. Lewis, no other exceptions. Alt. excused. 12:56 P.M. Jury retires to begin deliberations. Court denies all pending motions. Court files letter dated May 20, 1976, from Com. appt. defense counsel. "Application for Issuance of Subpoenas" with Subpoenas attached. Memorandum (re: Application of Court appt. Counsel for Issuance of Subpoenas), filed. Application denied w/o prejudice. All full exhibits and Indictment handed to Marshall and delivered to the jury. Note from jury read to counsel. Defense counsel and client's confer. Court's reply read to counsel and delivered to jury. Court Ex. 4, marked for ID. Court reads note from the jury. Court's reply read to counsel and delivered to jury. Court Ex. 5, marked. Court reads note from jur. that they cannot reach a verdict. Jury

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U. S. vs HENDRIX, et als

76 H-76-5

Yr. | Docket No. | Det

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
(Document No.)		(a)	(b)	(c)	(d)
6/4	returns to Courtroom for further instructions. Court instructs jury to continue deliberation tomorrow. Court Ex. 6, marked. Jury excused at 5:10 P.M. until June 5, 1976 at 10:00 A.M. Court adjourned until 10:00 A.M. of 6/5/76. Murphy, J. m-6/8/76.				
6/5/76	JURY TRIAL CONTINUES. Jury of 12 begins deliberations at 10:00 A. M. 10:48 Note from jury. Jury reports to Courtroom at 10:50 A.M.-no further instructions. Court reads note from jury at 2:24 P.M. Reply by Court read to counsel and sent to jury. Court Ex. 7, marked. 3:40 P. M. Jury note read to counsel 3:42 P.M. Jury returns to Courtroom. Note from jury re read stating they cannot reach a verdict. 3:43 P.M. Jury excused by Court. Court declares a mistrial. Same bond to continue for deft. Washington. Court Ex. 8 marked for ID. 3:44 Court adjourned. Murphy, J. m-6/8/76.				
6/9/76	Motion for Leave to Obtain Copy of Trial Transcript at Govt. expense, Motion for Evidentiary Hearing on Motion to Dismiss, Motion for PreTrial Conference, filed by deft. Williams				
" "	Motion for PreTrial Conference, and Motion to Dismiss, filed by deft. Lewis	3	6/9/76	G	
6/21/76	Marshal's non est return, filed: Bench Warrant marked "dism."				
6/22/76	Motion for Leave to Obtain Copy of Trial Transcript at Govt. Expense endorsed: Granted, as modified in open Court; Motion for Evidentiary Hearing on Motion to Dismiss endorsed: Denied for reasons stated in open Court. Motion for Pretrial Conference endorsed: Denied w/o prejudice. Newman, J. m-6/22/76. copies mailed to counsel of record.				
" "	Motion for Pretrial Conference endorsed: Denied w/o prejudice, Deft. Lewis's Motion to Dismiss endorsed: Denied for reasons stated in open Court. Newman, J. m-6/22/76. copies mailed to counsel.	3	6/22/76	G	13
6/21/76	Hearing held on all motions for retrial: Atty Salaway's motion to Withdraw over to 10:00 A.M. on 6/28/76, in New Haven. Atty. Salaway and deft. not present. Benchwarrant to issue for deft. Washington. Clerk to send a certified letter to Atty. Salaway with instructions that he be present in Court in New Haven, at 10:00 A.M. on June 28, 1976 to present his motion and to show				

-over-

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELA			
		(a)	(b)	(c)	(d)
6/21	(Document No.) cont'd cause why sanctions should not issue for his failure to appear today. Deft. Williams Motion for Certain Transcripts, granted. Court executed CJA 21. Court approves transfer of Deft. to F.C.I. Danbury. Deft. Williams motion to dismiss, denied. Deft. Lewis' Motion for Approval by Court of two out of state subpoenas to issue at Govt. expense, granted. Deft. Lewis's motion to dismiss, denied. Retrial set for Aug. 2, 1976. Newman, J. m-6/23/76.				
6/22/76	Certified letter sent to Atty. Salaway. See docket entry on Sheet for deft. Washington re: Bench Warrant				
6/23/76	Court Reporter's Notes of Proceedings (Motion) held on June 21, 1976, filed. Gale, R.				
6/23/76	Court Reporter's Notes of Proceedings (Plea re: Washington), filed. Gale, R.				
6/30/76	Marshal's return showing service, filed: Subpoena to testify (3).				
7/2/76	Court Reporter's Notes of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.				
6/30/76	CJA Form 21 authorizing Eldridge Waich, Investigator, filed. Newman, J. copies distributed.				
" "	CJA Form 21 authorizing transcript of trial, filed. Newman, J. copies distributed.				
7/7	Marshal's return showing service, filed: Writ of H. C. ad Prosequendum.				
7/7	STEWART: Form B mailed to A.O.				
7/12/76	Court Reporter's Transcript of Proceedings (trial) held on June 2, and 3, filed. Beecher, R.				
7/19	Application for Writ of H. C. ad Testificandum, filed by deft. Lewis and allowed. Zampano, J. m-7/20/76. two cert. copies handed to U.S. Marshal for service.				
7/23/76	Marshal's return showing service, filed: Subpoena to testify (4) Subpoena to Produce (1)				
7/29	Request for Instructions, filed by Govt. (Putting Lives in Jeopardy)				
7/29	Request for Instructions, (Accomplice Testimony), filed by Govt.				
8/2/76	SECOND TRIAL COMMENCES re: LEWIS, WASHINGTON & WILLIAMS : Notice of Alibi and Questions on Voir Dire, filed by deft. Williams. Decision reserved on Deft. Washingtons Motion for Severance. Atty Eckenrode moves that Deft. Williams be admitted as co-counsel for purposes of cross examination Court will allow cross exam by deft. tentatively for part of cross examination. Atty. Salaway requests that Govt. be instructed to call deft.				

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY		
		(b)	(c)	(d)
8/2/76	by his name, as well as possible witnesses who may testify. Request denied. Atty. Pyelas moves for permission for all defense counsel to interview Aaron Stewart, former deft. Court will give Stewart choice of being interviewed or not. Oath on Voir dire administered. 53 jurors respond to roll call. 12 jurors and 2 alternates sworn and impaneled. One govt. witness sworn and testified. Govt. Exs. 1, 2, 3(a) 3(b), 4(a), 5(a-d) 6(a-t), 7 & 7(a) and 11, filed. Court adjourned at 5:15 P.M. Newman, J. m-8/5/76.			
8/3/76	SECOND TRIAL CONTINUES: 10:05 A.M. 14 jurors present. Govt. witness previously sworn resumes stand. Gov. Ex. 14, filed. Oral motion of Deft. Williams for mistrial, denied. 7 Govt. witnesses sworn and testified Oral Motion of Deft. Washington and Lewis for Mistrial, denied. Govt. Exs. 9(b) and 10(b), filed. Govt. Ex12, filed. 3:06 P.M. Govt. rests. Motions for Judgment of Acquittal denied. Deft. Washington Motion to Sever orally renewed, denied. Three Deft. Williams witnesses sworn and testified. Deft. Williams sworn and testified. Govt. Ex. 15, filed. 5:20 P.M. Court adjourned. Newman, J. m-8/5/76.			
8/4	SECOND TRIAL CONTINUES: 10:00 A.M. 14 jurors present. Deft. Williams previously sworn resumes stand. Deft. Exh. H, filed. Oral motion of Deft. Washington to sever, denied. 12:39 P.M. Deft. Williams rests. One Deft. Lewis witness sworn and testified. 12:46 P.M. Deft. Lewis rests. Seven deft. Washington witnesses sworn and testified. Prior appt. of M. Mitchell Morse in this case to represent Aaron L. Stewart cont'd by Court to represent Stewart as witness. Deft. Ex. E, filed. 4:00 P.M. Court adjourned. Newman, J. m-8/6/76.			
8/5	SECOND TRIAL CONTINUES: 10:00 A.M. 14 jurors present. One Deft. witness sworn and testified Deft. Exs. B & C, filed. Deft. Washington rests 10:33 A.M.. One Govt. rebuttal witness testified. Deft. Ex. I, filed. Govt. rests 11:45 A.M.. Oral motions for Judgment of Acquittal-denied. Govt. opens 11:35 A.M. to 11:57 A.M. Deft. Williams 11:57 A.M to 12:27 P.M. Deft. Washington 12:39 P.M. to 1:00 P.M. Deft. Lewis 12:27 P.M. to 12:38 P.M. Govt. rests 2:03 P.M. to 2:19 P.M. Court charges jury 2:20 P.M. to 3:04 P.M. over			

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY
(Document No.)		(a) (b) (c) (d)
8/5	Court rules that Count 4 will not go to the jury. Deft. Williams takes exception to charge. 3:09 P.M. Form and Indictment and Exs. given to jury and deliberations commence. Note from jury 5:05 P.M. Note from jury 5:15 P.M. Court Exs. A & B, marked. 5:40 P.M. Jury excused until 8/6/76 at 10:00 A.M. to continue deliberations. 5:55 Court adjourned. Newman, J. m-8/9/76.	Verdict
8/6	Motion for Issuance of Subpoenas at govt Expense, filed by deft. Washington, and endorsed: Subpoenas approved. Newman, J. m-8/9/76. Two attested copies handed to U. S. Marshal at Hartford.	
8/6	SECOND TRIAL CONTINUES: 10:00 A.M. 12 jurors report to continue their deliberations. 11:55 A.M. note from jury, Court. Ex. C, marked for ID. 12:20 P.M. Jury returns to Courtroom to have portion of Jefferson testimony read. 2:00 P.M. *Note from Jury. 2:20 P.M. Jury returns to Courtroom and portions of Washington's testimony read. 2:50 P.M. Jury returns verdicts of guilty on Cts. 1, 2 & 3 as to all defts. Jury polled by Court and verdict verified. Motion of Govt. to revoke bond of Deft. Washington-granted. Sentencing set for 9/13/76 at 10:00 A.M. in New Haven. Newman, J. m-8/10/76. * Court Ex D, marked for ID.	
8/11	CJA Form 20 executed and approved. Newman, J. copies mailed to A.O. for payment. re: Atty. M. Mitchell Morse.	
8/10	Marshal's return showing service, filed: 3 Subpoena tickets and 1 Subpoena to testify.	
8/12	LEWIS: Motion for Judgment of Acquittal and Motion for New Trial, filed by deft.	
8/12	WILLIAMS: Motion for Judgment of Acquittal and Motion for New Trial, filed by deft.	
8/20	Marshal's return showing service, filed: Writ of H. C.	
8/20	Disposition scheduled for Sept. 13, 1976 over to 9/17/76 at 10:00 A.M. Newman, J. m-8/20/76.	
8/23	STEWART: Supplemental CJA Form 20 executed and approved. Newman, J. copies mailed to A.O. for payment.	
8/25/76	CJA Form 21 authorizing transcript of trial, filed Newman, J. copies distributed; Deft. Lewis.	
9/1	CJA Form 21 authorizing payment of \$300.00 to Eldridge Waith, Investigator, filed Newman, J. copies mailed to A.O. for payment.	

UNITED STATES DISTRICT COURT

CRIMINAL DOCKET

U. S. vs STEWART, et als

76-11-76-5

Yr. Docket No. Def.

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
1976	(Document No.)	(a)	(b)	(c)	(d)
9/3	CJA Form 20 authorizing transcript of trial, filed Newman, J. copies distributed re: Deft. Williams.				
9/13	Marshal's return showing service, filed: Writ of H. C. Ad Testificandum.				
9/20	WASHINGTON: CJA Form 21 authorizing transcript of trial, filed. Newman, J. copies distributed.				
9/17	WILLIAMS DISPOSITION: WASHINGTON Impr. 20 yrs. as a general sentence on all three cts. To commence this date, 9/17/76, and to run concurrently with unexpired portions of other federal sentences now being served. Court recommends that the deft. continue to be incarcerated within the Dist. of Conn. until the disposition of anticipated post sentencing motions by deft. Newman, J. m-9/23/76				
" "	LEWIS: DISPOSITION: Impr. 12 years as a general sentence on all three cts. To commence this date, 9/17/76, and to run concurrently with unexpired portions of other federal sentences now being served. Court recommends that the deft. continue to be incarcerated within the Dist. of Conn. until the disposition of anticipated post sentencing motions by deft. Newman, J. m-9/23/76				
8/30	Notice of Appeal, filed by deft. Williams.				
9/17	Notice of Appeal to 2nd Circuit Court of Appeals from a Judgment of Conviction in the District Court of Connecticut, filed by deft. Lewis and endorsed: Leave to appeal in forma pauperis granted. Newman, J. m-9/20/76				
9/20	LEWIS: Notice of Appeal, filed by deft.				
9/21	WILLIAMS: Notice of Appeal, filed by deft.				
9/21	WILLIAMS: Motion for Reduction of Sentence, filed by deft.				
9/22	WILLIAMS; Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two Cert. copies handed to U.S. Marshal for service.				
9/17	WASHINGTON: DISPOSITION: Impr. 10 years as a general sentence on all three cts. The Court recommends that the deft. continue to be incarcerated within the district of Connecticut until the disposition of anticipated post trial motions by deft. Deft's Motion for Bail, pending appeal-denied. Newman, J. m-9/23/76.				
9/22	LEWIS: Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two cert. copies handed to U.S. Marshal for service.				

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
9/22	WASHINGTON: Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two cert. copies handed to U.S. Marshal for service.				
9/23	WILLIAMS & LEWIS: Certified copies of docket entries and Notices of Appeal, mailed to Clerk, U.S.C.A.. copies of Notices of Appeal mailed to counsel on 9/22/76.				
9/21	LEWIS: Motion for Reduction of Sentence, filed by deft.				
9/22	WILLIAMS: Motion For Judgment of Acquittal and for New Trial endorsed: Motion denied. Newman, J. m-9/22/76. copies mailed to counsel of record.				
9/22	LEWIS: Motion for Judgment of Acquittal and Motion for New Trial endorsed: Motion denied. Newman, J. m-9/22/76. copies mailed to counsel of record.				
9/24	Order for Return of Bond, filed and entered. Newman, J. m-9/24/76. Check #429 issued and given to Pearl Holderby, surety on Bond.				
9/27	Notice of appeal, filed by deft. WASHINGTON				
9/27	Motion for Reduction of Sentence, filed by deft. Washington.				
9/28	WASHINGTON: Certified copy of Notice of Appeal mailed to Clerk, U.S.C.A.. Copy of notice of Appeal mailed to all counsel of record.				
9/27	Court Reporter's Transcript of Proceedings (DISP) held on 9/17/76, filed. Collard, R.				
10/1	Notice of appeal (2), filed by deft. Washington.				
10/4	WASHINGTON: Notice of Appeal, filed 10/1/76 endorsed: Time to File Notice of Appeal extended until Oct. 1, 1976, F.P.A.P. 4, and leave to appeal in forma pauperis is granted. Newman, J. m-10/4/76.				
10/4	WASHINGTON: Certified copies of notices of Appeal and docket entries mailed to Clerk, U.S.C.A. together with the Criminal Case Information (FORM A) as to all three defts.				
10/4	Court Reporter's Notes of Proceedings (trial) held on Aug. 2, 3, 4 & 5, 1976, filed. Merchant, R.				
" "	Court Reporter's Notes of Proceedings (DISP) held on 9/17/76, filed. Merchant, R.				
" "	Court Reporter's Notes of Proceedings (trial) held on 8/6/76, filed. Merchant, R.				

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
3/18/76	Notice of Motion, Motion to Dismiss, and Affidavit of Richard Washington and Kenneth W. Salaway, filed by deft.	3	3/18/76	G	
3/26/76	Notice of Readiness, filed by govt.				
4/21	Ruling on Defendant's Motion to Dismiss, filed and entered. Motion to dismiss is denied, w/o prejudice to renewal at trial. Newman, J. m-4/22/76. copies mailed to counsel.	3	4/21/76	G	
5/19	Notice of Motion, Motion to Withdraw Appearance and Affidavit of Kenneth Salway, filed.				
5/20	Attorney's Affirmation filed by Atty. Salaway.				
6/18	Notice of Motion to Withdraw Appearance and Affidavit of Kenneth Salaway and Richard Washington, filed by deft.				
6/22/76	Hearing held. Deft. presented Before Court to learn the circumstance for his non appearance. Deft. is advised to appear with his Atty on June 28, 1976 to hear Motion to Withdraw. Deft. is released under conditions of previous bond and Bench Warrant is quashed by Court Order. Newman, J. m-6/22/76.				
6/28/76	Hearing held on Motion to Withdraw. Motion to Withdraw is denied. Deft. is to submit financial affidavit. After Court reviews affidavit it will appt. Atty. Salaway. If deft is able he will make payment towards atty. fees. Counsel advises Court it will submit Motion to Sever within one week. Deft. orally renews Motion to Dismiss-denied. Court instructs the deft of his obligation to appear and assist his atty in preparation of case. Financial Affidavit, filed by deft. Set for jury selection on Aug. 2, 1976 at Hartford. Newman, J. m-6/28/76.				
" "	Notice of Motion to Withdraw Appearance endorsed Motion denied for reasons stated in open Court. Newman, J. m-6/28/76.				
6/25	Court Reporter's Notes of Proceedings (Motion) held on June 22, 1976, filed. Russell, R.				
7/9	Notice of Motion, Motion for Severance and Affidavit of Attorney Salaway, filed by deft.	3	7/9/76	E	
7/1	CJA Form 20 appointing Kenneth Salaway to represent deft., filed. Newman, J. Copies distributed.				
8/6	Court Reporter's Notes of Proceedings (Motion) held on June 28, 1976, filed. Russell, R.				
8/11	Motion to Sever endorsed: Motion denied w/o prejudice for reasons stated in open Court. Newman, J. m-8/11/76 copies mailed to counsel.				

EXHIBIT C

1 the attorneys'.

2 Thank you.

3 THE COURT: Ladies and gentlemen, now you
4 have heard all the evidence in the case and you have heard
5 the arguments of counsel and now it's my task to instruct
6 you as to the rules of law that govern this case and then
7 it will be your task to apply those rules of law to the
8 facts as you find them and in that way reach your verdicts.

9 It's exclusively the function of the Court
10 to set forth the rules of law, to explain their applica-
11 tion on these legal matters. You must take the law as I
12 give it to you.

13 But when it comes to determining the facts
14 of the case, then you are the sole judges of the facts.
15 It's your duty to find those facts, weigh the testimony,
16 draw your own conclusions as to what you believe the
17 facts are.

18 You may not go outside the evidence. You
19 may not resort to guesswork, conjecture or suspicions.

20 If, in the course of this charge, I
21 refer to any facts by way of illustration or to indicate
22 a contention of one of the parties, and if I should state
23 the facts differently than you recall them, you rely on
24 your own recollection and judgment. If your recollection
25 is different from what the attorneys may have said in

1 argument, you rely on your judgment, because you are the
2 sole fact-finders in this case.

3 Now, the Government is not to be considered
4 in any way in a different light than any other party to
5 a lawsuit and Counsel for the Government is not to be
6 considered in a different light than Counsel for the
7 Defendants.

8 The fact the Government is a party in this
9 particular lawsuit entitles it to no greater or lesser
10 consideration than that accorded any other party to a
11 lawsuit.

12 Now in general in doing your task of
13 fact finding, you can consider two types of evidence. One
14 is called direct evidence and generally that means the
15 testimony of an eye-witness. And the other is circumstantial
16 evidence, and that means facts proved from which a jury
17 may infer by a process of reasoning other facts sought to
18 be established as true.

19 Now sometimes different inferences may
20 be drawn from the same set of facts. Often the
21 Prosecution will ask you to draw one set of inferences
22 and the Defendants will ask you to draw different
23 inferences.

24 It is for you to decide which common sense
25 inferences you think are reasonable to draw from the

1 facts that you think are established.

2 Circumstantial evidence may be received
3 and is entitled to such consideration as you think it
4 deserves, depending on the inference you think necessary
5 and reasonable to draw.

6 No greater degree of certainty is required
7 when the evidence is circumstantial than when it's direct
8 or with either type of evidence there cannot be a
9 conviction unless you are persuaded beyond a reasonable
10 doubt of the guilt of the Defendant.

11 Now in this case, as in every criminal
12 prosecution, each Defendant is presumed to be innocent
13 unless proven and until proven guilty beyond a reasonable
14 doubt. That presumption of innocence was with each
15 Defendant when he was first presented for trial and it
16 continues with him throughout the trial and as far as you
17 are concerned, he is innocent and continues innocent
18 unless and until such time as all the evidence produced
19 in the trial, considered in light of these instructions
20 and deliberated upon by you, satisfies you beyond a
21 reasonable doubt that he is guilty.

22 Now the burden of proving a Defendant guilty
23 of the crimes with which he is charged rests on the
24 Government. A Defendant does not have to prove his
25 innocence.

1 This means that before you may find a
2 Defendant guilty of any count, the Government must prove
3 to you beyond a reasonable doubt each and every element
4 necessary to constitute the crime charged. Whether that
5 burden of proof resting on the Government has been sus-
6 tained depends not on the number of witnesses or the
7 quantity of testimony, but on the nature and the quality
8 of the testimony.

9 Now, as to that phrase, prove beyond a
10 reasonable doubt, a doubt founded upon reason, it's a
11 doubt as will be entertained by a reasonable person
12 after all the evidence is analyzed, compared and weighed.
13 A reasonable doubt may arise not only from the evidence
14 that has been produced, but also from a lack of evidence.

15 Since the burden is on the Government to
16 prove a Defendant guilty of every element of each crime
17 charged, a Defendant has the right to rely upon a failure
18 of the Government to establish such proof.

19 However, absolute or mathematical certainty
20 is not required, but there must be such certainty as
21 satisfies your reason and judgment, and such that you
22 feel conscientiously bound to act upon.

23 A reasonable doubt is not a fanciful or
24 capricious doubt, for anything relating to human affairs
25 and depending upon human testimony is open to some possible

1 or imaginary doubt.

2 A reasonable doubt is such doubt as would
3 cause a prudent person to hesitate before acting in matters
4 of importance to himself or herself. So if the evidence
5 warrants, in your judgment, the conclusion that a Defendant
6 is guilty, so as to exclude every other reasonable con-
7 clusion, you should declare him to be guilty.

8 On the other hand, if on all the evidence
9 you have a reasonable doubt to the guilt of the Defendant,
10 you then must find him not guilty.

11 Now, this case involves criminal charges
12 brought by the Government against the three Defendants
13 on trial. The charges are set forth in an indictment
14 which carries the number N-76-5, and you will have that
15 indictment with you in the jury room to see the exact
16 description of the charges.

17 Now I'll go over them in just a moment.
18 Let me first explain the function of an indictment.

19 An indictment by a Grand Jury is simply
20 the formal method of accusing a Defendant of certain
21 crimes. It defines the crimes charged and defines the
22 manner of their alleged accomplishment. But the indict-
23 ment is without any bearing or significance in your
24 consideration of this case, and it is to be accorded
25 no weight by you in determining the guilt or innocence

1 of any Defendant. By their pleas of not guilty, each
2 Defendant has denied each and allegation set forth in
3 the indictment.

4 Now one other preliminary but very important
5 matter. You are considering here three separate cases,
6 one case against each of the three Defendants on trial.
7 These three cases are tried together before you simply
8 as a matter of convenience. But in your determination
9 of the guilt or innocence of each Defendant, you must give
10 individual consideration to each case against each
11 Defendant.

12 Your verdict as to any one Defendant must
13 not influence your verdict with respect to any other
14 Defendant. These are three separate cases and you should
15 consider them individually as three separate cases, one
16 case involving each of these three Defendants.

17 Now each of these three Defendants has
18 been charged in a three-count indictment which alleges
19 three separate violations of Federal law, all relating to
20 the Stamford bank robbery. Let me first summarize those
21 three crimes before going into them in detail so you'll
22 understand the overall relationship of one charge to
23 another.

24 The Defendants are accused in Count One of
25 unlawfully taking by force and violence or by intimidation

1 money from a bank; in Count Two of taking from a bank
2 with intent to steal money in excess of a hundred dollars.
3 This count, that's Count Two, does not include the element
4 of force or violence or intimidation, but simply taking
5 money from a bank with intent to steal in excess of a
6 hundred dollars.

7 Now, Count Three alleges that while taking
8 the money from a bank, the Defendants put in jeopardy the
9 life of another person.

10 Now since each count of the indictment
11 charges each Defendant with a separate crime, you must
12 consider the essential elements of each count separately
13 and return a verdict as to each count and as to each
14 Defendant so you've got three Defendants and three counts.
15 You will have a verdict form which will indicate the
16 separate counts with respect to each Defendant.

17 Now these three crimes concerning the Stamford
18 bank robbery that are charged in this indictment are the
19 only charges with which you should be concerned. There's
20 be mention in the testimony of other crimes and I'll have
21 more to say about that a little later. But I emphasize
22 now that the three crimes alleged in the indictment are
23 the only crimes you are asked to render verdicts on.

24 If you think the evidence establishes
25 beyond a reasonable doubt the guilt of the Defendant on any

1 one of these three crimes, then you should declare him
2 guilty on that count. But if you are not persuaded beyond
3 a reasonable doubt that the Defendant is guilty of the
4 crimes charged in that count, then you must declare him
5 not guilty on that count.

6 Now before turning to the three counts in
7 detail, let me just mention that later on in the instruction
8 I'll refer to a special rule that applies where more than
9 one person participates in the commission of a crime.

10 This rule concerns the circumstances under
11 which the action of one person can be attributed to another
12 person. I'll explain that a little later and I will also
13 explain later the test to apply in deciding whether a person
14 may be found guilty as an aider and an abettor.

15 Now let me turn to the three specific
16 charges. First, with reference to Count One, Federal law
17 makes it a crime to take by force and violence or by
18 intimidation from the person or presence of another money
19 belonging to, in the custody of a bank, the deposits of
20 which are insured by the Federal Depositors Insurance
21 Corporation.

22 Count One charges violation of Federal
23 Statute defining that crime, let me read the count to
24 you. "On or about September 20, 1973, at Stamford in
25 the District of Connecticut, Arthur T. Handrix, David R.

1 Lewis, Aaron Lee Stewart, Richard Washington and David
2 Williams, the Defendants herein, did by force and violence
3 and by intimidation take from the person and presence of
4 another money belonging to and in the care, custody and
5 control and management and possession of the West Side
6 Office of the Connecticut National Bank, 414 West Main
7 Street, Stamford, Connecticut; the deposits of which were
8 then insured by the Federal Depositors Insurance Corporation."

9 Now there are six essential elements of the
10 count, each one of which the Government has the burden of
11 proving beyond a reasonable doubt. First, that a Defendant
12 actually was present at the Connecticut National Bank,
13 West Side Office on September 20, 1973; second, that a
14 Defendant at that bank at that date took money from the
15 person or presence of another; third, that a Defendant
16 at that bank on that date took such money by force or
17 violence or by intimidation; fourth, that such money
18 belonged to or was in the care, custody, control, manage-
19 ment or possession of that bank on that day; five, that
20 the deposits of the bank on that day were insured by the
21 Federal Depositors Insurance Corporation.

22 Sixth, that the Defendants in taking the
23 money from the person or presence of another by force or
24 violence or by intimidation willingly and with special
25 intent -- by force and violence means the use of actual

1 physical pressure or constraint and it means such a display
2 of physical pressure calculated to inspire fear to the point
3 of imposing the will of the person exerting the force.
4 It doesn't necessarily mean actual physical contact, although
5 that could be involved, but that is not a requirement.

6 Any conduct which is intended to cause fear
7 or terror is sufficient to constitute force and violence
8 as used in the statute.

9 And the word intimidation has a somewhat
10 similar meaning, simply means to put in fear or to inspire
11 with fear and fear may be inspired without physical violence
12 or without spoken threats. It may be accomplished by a
13 menacing attitude or a display of force. Threats by words
14 or gestures may constitute intimidation if the effect of
15 such words is to put in fear of physical harm the person
16 towards whom they are directed.

17 Now this fear need not be so great as to
18 result in terror, panic or hysteria. Confrontation with
19 a dangerous weapon as a shotgun will place the person in
20 sufficient fear to constitute intimidation as used in
21 this statute. There need be no direct proof of actual
22 fear, the fear rather may be inferred where there is
23 just cause for it.

24 It is not necessary that you find the taking
25 of the money was accomplished by both violence and force

1 and intimidation. The taking of money by either force
2 and violence or intimidation is sufficient to comply with
3 the requirements of the statute.

4 Now, money is in the care, custody, control
5 or possession of the bank if it's part of the cash with
6 which the bank handles the normal operations such as the
7 money the tellers use to make change, cash checks or pay
8 out of for depositors.

9 The term "bank" in this section of the law
10 means a bank, the deposits of which are insured by the
11 Federal Depositors Insurance Corporation.

12 And then as the last element, it is that the
13 act be done willingly and with specific intent. An act
14 is willingly done if it is done voluntarily and purposely
15 with a specific intent to do what the law forbids. Mere
16 laxness, carelessness, even gross negligence is not enough
17 to show willfulness and specific intent means more than
18 a general intent to commit an act. The person must
19 specifically acting knowing he does what the law forbids
20 and purposely intending to violate the law or recklessly
21 disregarding the law.

22 So as to that first count, you have those
23 six elements and as I have indicated, you have to determine
24 whether each element has been established beyond a
25 reasonable doubt as to the particular Defendant whose

1 case you are considering at the time. All right?

2 Let me turn now to Count Two. Federal law
3 makes it a crime to take away with intent to steal money
4 exceeding a hundred dollars belonging to and in the custody
5 of a bank, the deposits of which are insured by the
6 Federal Depositors Insurance Corporation.

7 In Count Two, it charges a violation of that
8 statute by the same Defendants at the same bank on the
9 same day. I won't read the terms, but you will have the
10 indictment to look at. There are five essential elements
11 of the crime charged in Count Two and each of which the
12 Government has to prove beyond a reasonable doubt.

13 One is that a Defendant actually was present
14 at the Connecticut National Bank, East Side Office, on
15 September 20, 1973; that a Defendant took and carried
16 away from the bank on that day in excess of a hundred
17 dollars; that the money belonged to and was in the care,
18 custody and control, management or possession of the
19 bank on that day; fourth, that the deposits of the bank
20 were insured by the Federal Depositors Insurance Corpora-
21 tion on that day; and five, that the Defendants in taking
22 and carrying away the money in excess of a hundred dollars
23 on that day actually did so willingly and with intent
24 to steal.

25 Now as to Count Three, Federal law makes it

1 a crime while committing an offense charged in Count One
2 to put in jeopardy the life of any person by the use of
3 a dangerous weapon. In Count Three, it charges a violation
4 of that Statute again by the same Defendants at the same
5 bank on the same date.

6 There are three essential elements of the
7 crime charged in Count Three, each of which the Government
8 has to prove beyond a reasonable doubt. The first element
9 is that the Defendant had committed the offense charged
10 in Count One of the indictment; the second element is
11 that in committing the offense charged in Count One, a
12 Defendant jeopardized the life of a person or persons in
13 the bank by use of a dangerous weapon; and, three, that
14 a Defendant in jeopardizing the life of a person in the
15 bank by use of a dangerous weapon acted willfully with
16 specific intent.

17 Now, obviously, before you could find a
18 Defendant guilty on Count Three, you would have to find
19 him guilty on Count One, that is, of having taken by
20 force or violence or intimidation from the person of
21 another money belonging to the bank. So if you find a
22 Defendant not guilty on Count One, then you don't consider
23 Count Three at all. But if you find a Defendant guilty
24 in Count One, then you ought to consider whether or not
25 the evidence establishes his guilt beyond a reasonable

1 doubt on Count Three.

2 Now let me explain one of the phrases in
3 connection with that count. To put in jeopardy the life
4 of a person by the use of a dangerous weapon means to
5 expose such person to risk of death by the use of a dangerous
6 weapon. Now risk of death is to be determined objectively,
7 not subjectively. In other words, with respect to this
8 element of Count Three, the issue is whether the lives
9 of persons in the bank were, in fact, in danger, not
10 merely whether any of them thought their lives were in
11 danger.

12 This element differs from the element of
13 intimidation that I mentioned in connection with Count One.
14 To establish that in Count One all that is needed is to
15 be shown the person in the bank feared violence. But
16 to establish for the purposes of Count Three that the
17 life was in jeopardy, the evidence must show beyond a
18 reasonable doubt that the life actually was in danger.

19 Now you are entitled, but not required to,
20 infer from all the evidence that the lives of persons in
21 the bank actually were in jeopardy. You're entitled to
22 reach that conclusion if you find that the loaded rifle
23 or loaded pistol was being pointed at them. In
24 considering whether the guns alleged to have been used
25 by the robbers were loaded, you are entitled to consider

1 all the circumstances alleged to have occurred during the
2 robbery, including what the robbers are alleged to have
3 said to the people in the bank.

4 Now let me explain the rule I mentioned
5 earlier that is the situation where a bank robbery is
6 committed by more than one person. As you will recall,
7 there was an element in each of the three crimes that I
8 explained to you that requires a participant in the
9 robbery to do something in Count One, he had to take
10 money by force or violence or intimidation. In Count Two,
11 he had to take money in excess of a hundred dollars. And
12 in Count Three, he had to jeopardize the life of a person
13 in the bank by use of a dangerous weapon.

14 Now I instruct you that the Government does
15 not have to prove that each Defendant individually took
16 each of these actions. If you find beyond a reasonable
17 doubt that a Defendant was one of the participants in
18 the Stamford robbery and if you further find beyond a
19 reasonable doubt that the robbers were knowingly and
20 willingly engaging in a joint venture, the object of
21 which was to rob that bank on that day, then you may
22 find the actions of any one of them in the bank attributed
23 to the others and each of them may be found to have done
24 what any one of them has done.

25 For example, if you find that one of the

1 robbers jeopardized the life of a person in the bank with
2 a dangerous weapon and you find that the other Defendants
3 were knowingly and willingly participating with that
4 robber in the joint venture to rob the bank, then you're
5 entitled to conclude that the other Defendants jeopardized
6 the life of the person in the bank with a dangerous weapon,
7 whether or not the other Defendants were actually pointing
8 a loaded weapon at that person.

9 Of course, you still have to be satisfied
10 that all the elements of an offense have been established
11 before you can return a verdict of guilty on that count.

12 Now let me explain the similar rule con-
13 cerning aiding and abetting. Whoever commits an offense
14 against the United States or aid, abets, counsels, commands,
15 induces or procures its commission is punishable with
16 prison. In other words, every person who willingly
17 participates in the commission of a crime may be found
18 to be guilty of that offense. And as I will explain,
19 participation is willingly with intent to do something
20 the law forbids. That is, with a bad purpose either to
21 disobey or disregard the law.

22 In order to aid, abet, commit a crime, it's
23 necessary that the accused willfully associate himself
24 in some way with the criminal venture and willingly
25 participate in it as he would in something he wished to
bring about.

1 That is, that he willingly seek by some
2 act of his to make the criminal venture successful.

3 In this case, the Government contends
4 that Defendant Richard Washington is guilty of the crimes
5 charged as an aider and an abettor. They contend that
6 he was the driver of the getaway car. If you are persuaded
7 beyond a reasonable doubt that from all the evidence in
8 the case that Washington was the driver of the getaway
9 car and that he performed that role knowingly and willingly,
10 you would be entitled to conclude that he was aiding
11 and abetting the commission of a robbery.

12 If you find as to any count that a Defendant
13 is guilty as an aider or abettor, your verdict is simply
14 guilty on that count without any separate indication
15 that the person was an aider or abettor.

16 During the course of the trial, you have
17 heard testimony implicating the Defendants in criminal
18 activities other than the crimes charged in the indict-
19 ment concerning this Stamford bank robbery. The
20 Government relies on evidence of Julian Jefferson and
21 I suppose, to some extent, the evidence of David Williams
22 on cross-examination to establish that Williams, Lewis
23 and Washington were participants in the August 31, 1973
24 robbery of the bank on Long Island and I think it would
25 refer to also as Jericho, but I'll refer to it as Long

1 Island to distinguish it from the Stamford, Connecticut
2 bank.

3 Now I caution you ladies and gentlemen to
4 be extremely careful in the way you use this evidence if
5 you accept it as true. If you find that one or more of
6 the Defendants was a participant in the Long Island bank
7 robbery and if you find that that robbery was carried out
8 in a way similar to the Stamford robbery and both were
9 part of a common scheme or that the planning of the
10 Stamford robbery was an outgrowth of the division of money
11 from the Long Island robbery, then you are entitled to
12 consider evidence of a Defendant's participation in the
13 prior robbery as some evidence of that person's being a
14 participant in the Stamford robbery.

15 But you cannot use the evidence of other
16 crimes such as the Long Island robbery simply to conclude
17 that one or more Defendant is a bad person or that person
18 is of bad character and for that reason, ought to be
19 convicted of the crimes with which he's charged in this
20 case.

21 You are not asked to judge the character
22 of any Defendant. You are asked to determine whether the
23 evidence persuades you beyond a reasonable doubt of a
24 Defendant's guilt of any or all of the three offenses
25 charged in connection with the Stamford bank robbery.

1 Now let me mention the contentions of
2 Defendants Williams and Washington, that each of them
3 was at a specific location other than the bank in
4 Stamford on the morning of September 20, 1973, when the
5 robbery occurred. The contention of Defendant Williams
6 is that he was at home in Hollis, Queens, home about
7 9:00 A.M -- well, excuse me. The claim of the Defendant
8 Washington is that he was at home in Hollis, Queens, and
9 observed there by Yvonne Washington at about 9:00 A.M.

10 The contention of Defendant Williams is
11 that he left his apartment in Queens around 9:00 A.M.
12 in the morning of September 20th and that he went to
13 where Gloria Burnett works to invite her to his mother's
14 birthday party that night and he went to work.

15 Now, these defenses that the Defendant
16 was at a place other than where the robbery was committed
17 is an entirely legal and proper defense. But I want to
18 make clear that the Defendant does not have to establish
19 his defense beyond a reasonable doubt. The Government
20 must prove beyond a reasonable doubt that each Defendat
21 was at the bank.

22 So if after weighing the evidence the jury
23 has a reasonable doubt whether the prosecution has proven
24 that the Defendant whose case you are considering was
25 present at the time and the place that the alleged crime

1 was committed, then you must acquit that Defendant.

2 Now, obviously, in performing your function
3 of determining the facts one of the most important things
4 you have to do is to determine matters of credibility,
5 that is, the believability of witnesses.

6 And there are certain considerations you
7 are entitled to have in mind as you do that. You are
8 entitled to consider the appearance of the witness on
9 the witness stand, try to size him up, did he appear to
10 you to be telling the truth? Did he appear to be honest?
11 Did he appear to be a person who could have made the
12 observation that he tells you he did and is he capable
13 of reporting to you accurately?

14 You're entitled to consider whether the
15 testimony he's given you is plausible, does it ring true?
16 Or are there inconsistencies in it? How does it fit in
17 with the other evidence in the case which you do believe
18 and other facts you find to have existed?

19 You are also entitled to consider whether
20 any witness has an interest in the outcome of the case
21 or any bias that may affect his testimony one way or the
22 other.

23 If you find that any witness has been
24 deliberately falsifying a material point, you are entitled
25 to take that fact into consideration in determining whether

1 he's falsified any other points. But simply because a
2 person has reported one fact inaccurately doesn't mean
3 he's wrong on others. The person may be honestly
4 mistaken on one and accurate on the other and a person
5 may falsify on one and be truthful on another. But if
6 you find a witness has lied on a material point, it's
7 only natural that you would be suspicious of his testimony
8 on other points.

9 You have the right to reject testimony
10 even though it is uncontradicted if you feel a justifiable
11 reason for doing so. Now, of course, it doesn't follow
12 that just because a witness, whether for the Government
13 or the Defense, has an interest in the outcome of the
14 case or a bias, that his testimony is to be disbelieved.
15 There are many people, no matter what their interest in
16 the outcome of the case, who would not testify falsely.
17 But a jury is entitled to bear in mind who the witness is,
18 would the witness have a bias or an interest in the outcome
19 of the case, has there been any attempt to shade his
20 testimony in accordance with his bias or some way to
21 advance his own interest?

22 Whether to the advantage of one or to the
23 damage of another?

24 In general, in matters of credibility, you
25 ought to apply the same consideration and use the same

1 sound judgment that you rely on for questions of truth
2 and veracity that are daily presenting themselves in the
3 important matters in your own lives.

4 You'll recall there was evidence offered
5 by the Government of what sometimes is referred to as
6 an expert witness, the speech pathologist.

7 Generally, under the rules of evidence,
8 a witness can't give an opinion or conclusion, but there
9 is an exception for what we call the expert witness, a
10 witness who might, through education and experience, become
11 expert in some particular art or science or profession.

12 You're entitled to consider the expert
13 opinion given by such a person and give it the weight
14 you think it deserves.

15 If you decide the opinion is not based upon
16 sufficient education and training or experience, if you
17 should conclude for the reasons given that the opinions
18 are not sound or if you conclude the opinion is outweighed
19 by other evidence, you are entitled to disregard the
20 opinion entirely. What weight you give it is up to you.

21 Now in this case one of the witnesses you
22 heard testify was the Defendant Williams, a Defendant
23 who wished to testify as a competent witness. Defendant
24 Williams' testimony is to be considered the same as other
25 witnesses. Now in this case, the testimony of some of

1 the witnesses was sought to be impeached or discredited
2 by showing the witness had previously been convicted
3 of a felony, that is, by more than a year in prison.

4 A prior conviction does not render a
5 witness incompetent to testify, but merely a circumstance
6 which you are entitled to consider in determining the
7 credibility of the witness.

8 Now where one of the witnesses was sought
9 to be impeached by prior convictions, the jury must take
10 care to consider the prior conviction only as it may
11 affect credibility and must not consider that evidence
12 of a prior conviction as evidence that the accused committed
13 the crime with which he's charged now.

14 Now the law does not compel a Defendant
15 to take the stand and testify and no presumption of guilt
16 may be raised and no unfavorable inference of any sort
17 may be drawn from the fact that Defendant Lewis chose
18 not to testify. You must not permit such a fact to weigh
19 in the slightest degree against a Defendant nor should it
20 enter into your discussions or your own deliberations.

21 A Defendant is not required to establish
22 his innocence. He need not produce any evidence whatever
23 if he does not choose to. As I have mentioned before,
24 it is the burden on the Government to prove a Defendant
25 guilty beyond a reasonable doubt.

1 Now let me add some further considerations
2 for you to bear in mind in considering the credibility
3 of witnesses and I'm referring now to the credibility of
4 witnesses Arthur Hendrix and Julian Jefferson. Now each
5 has admitted his participation in bank robberies. By his
6 own admission, Hendrix is an accomplice of the perpetrators
7 of the crimes charged in this indictment. This is a crime
8 in connection with the Stamford bank robbery.

9 Jefferson is an accomplice of the perpetra-
10 tors of the Long Island bank on or about August 31, '73.

11 I instruct you that the testimony of an
12 accomplice should also be weighed with caution and great
13 care. Moreover, each of these two witnesses understands
14 that he has received certain personal benefits. Hendrix
15 had the charges concerning the Stamford robbery dismissed.
16 Jefferson has received favorable letters from the
17 Prosecutor for the Parole Board.

18 In such circumstances, you should bear in
19 mind that there is always a risk that an accomplice
20 may fabricate or embellish a story in a way that he thinks
21 will be helpful to the Prosecution. He may not do it
22 deliberately or intentionally. He may even mistakenly
23 believe that the conviction of one or more of the Defendants
24 will cause him to lose some of the benefits he expects
25 to receive. I urge you to keep this in mind when you are

1 considering the credibility of Hendrix or Jefferson. They
2 reinforce what I told you earlier about weighing the
3 testimony of an accomplice with caution and great care.
4 I'm not suggesting that you are not entitled to accept the
5 testimony of an accomplice, even when he has received or
6 may hope to receive substantial benefits.

7 Sometimes the testimony of an accomplice
8 is accurate as to most or all occasions or details and may
9 be the only evidence available to establish certain facts.
10 You are entitled to rely on Hendrix's testimony whether or
11 not it is corroborated. You should bear in mind what I
12 have said in deciding how much weight to give his testimony
13 and that of Jefferson and you are free to credit none of
14 it, some of it or all of it.

15 Now those same cautions apply when you
16 come to consider the testimony of Defendant Williams
17 about the participation of Washington and Lewis in the
18 prior bank robberies, that is, the Long Island robbery.

19 Williams has acknowledge that he was an
20 accomplice of the perpetrators of that robbery, so his
21 testimony implicating others in that robbery should be
22 similarly weighed with caution and great care. I do not
23 suggest, however, that when you consider Williams'
24 testimony in his own behalf denying his involvement in
25 this robbery, the Stamford robbery, that any special rule

1 applies. The testimony of a Defendant in his own behalf
2 should be assessed according to the same consideration you
3 allow to any other witness.

4 Now, obviously, this case, like any criminal
5 case where issues of guilt or guilt and innocence are
6 involved is not easy to decide. The accusation against
7 each of these three Defendants as to their participation
8 in the robbery comes essentially from the witness Arthur
9 Hendrix. I have told you about the caution to be applied
10 in considering in accomplice's testimony, and I've discussed
11 the limited use you are entitled to make of evidence if
12 you accept it of a Defendant's involvement in the previous
13 Long Island robbery.

14 You are entitled to use all of the evidence
15 in the case in deciding whether or not you are persuaded
16 beyond a reasonable doubt that Hendrix was telling the
17 truth as to the involvement of each Defendant in the
18 Stamford robbery, but you cannot convict a Defendant
19 unless you believe beyond a reasonable doubt that Hendrix
20 has truthfully described that Defendant's participation
21 in the Stamford robbery. You cannot convict a Defendant
22 because you don't like him or because of what has occurred
23 in his past.

24 The only issues before you are whether the
25 evidence persuades you beyond a reasonable doubt of the

1 Defendant's guilt of the crimes charged in this indictment.
2 If you are persuaded beyond a reasonable doubt, you should
3 return a verdict of guilty as to the count on which the
4 evidence does persuade you. If the evidence does not
5 persuade you beyond a reasonable doubt as to those counts,
6 then you must return a verdict of not guilty.

7 Now when you reach the jury room select one
8 of your number as the foreman or forelady to preside over
9 your deliberations, determine the facts on the basis of
10 the evidence, apply the rules of law as I have explained
11 them to you and then return to the Court and render your
12 verdicts fairly, uprightly and without a scintilla of
13 prejudice.

14 When you reach a verdict as to any one
15 Defendant on any one count, that verdict must be unanimous.
16 It is the duty of each juror to discuss and consider the
17 opinions of each of the other jurors. But in the last
18 analysis, it's your individual duty to make up your own
19 minds and to decide this case upon the basis of your own
20 individual judgment and conscience.

21 Now let me excuse the two alternates who
22 have sat patiently with us during the trial. I imagine
23 there is probably something of a frustration being almost
24 at the end and then to be excused at this point. Obviously
25 your presence to this point has given us that guarantee

EXHIBIT D

David Williams
72 Seyms Street
Hartford, Conn.

Oct. 18th, 76

Hon. Judge Jon O. Newman
Federal Court District of Conn.
141 Church Street
New Haven, Conn.

RE: United States V. D. Williams N 76-5

Dear Honorable Sir:

After deep meditation, and prayer, I have come to the conclusion that I must obey Divine law, which is truth, rather than to endanger my soul by continuing to return lie, for lie to protect my legal rights from mere men.

Realizing that I may lose my right to appeal the twenty year sentence imposed, and perhaps will be indt. for perjury, I make the following statement of free will.

In the year of 1974, I confessed to F.B.I. agents, and to a asst. U.S. atty. in the Southern District of New York, my involvement in said Sept. 20th, Stamford bank robbery, as I was confessing to all bank robberies, which I had participated in.

3500 material will verify my above statement

Due to the urging of the F.B.I., I falsely implicated Richard Washing, and David Lewis in said robbery, in hopes that

it would lighten the F.B.I.'s wrath against me, for not setting up the staged bank robbery, and involving Lewis, and Washington as they had suggested to me in Nov. of 73.

Joe Daniels, Edward Taylor, Arthur Hendrix, Aaron Stewart, and myself were actual participants in the bank robbery. Hendrix's half brother was paid for the use of his car, which he knew was going to be used in a bank robbery.

However, after receiving verbal assurance from the F.B.I., and the asst. U.S. atty., that I would not be indt. for this Stamford bank robbery, two years later, I find myself indt., forced to trial, and subsequently convicted of said robbery because I would not testify falsely against Lewis, and Washington as Hendrix did.

I am not the same man I was three, or even two years ago. And my moral conscience won't allow me to see these men suffer any longer for the sake of my legal rights.

I have been bought a good trade at Lewisburg, and I am willing to make complete restitution in payments once I am paroled, for whatever mercy you may show for my situation.

Respectfully Yours,

David Williams